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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) NO. CR 16-00378 MMC
Plaintiff,)
v.) UNITED STATES' SENTENCING
YAN FENG,) MEMORANDUM
Defendant.)
) Courtroom: Honorable Maxine M. Chesney
) Sentencing Date: November 30, 2016
) Time: 2:15 p.m.
)
)
)

INTRODUCTION

The United States files this Sentencing Memorandum in support of the parties' agreed upon disposition in the above captioned case, with a recommendation that the Court impose a sentence of 30 months' imprisonment followed by a three-year term of supervised release which would include two special conditions.

ARGUMENT

The facts of this case are before the Court in the criminal complaint, Presentence Report (PSR), and other filings under seal. In summary, the defendant was arrested on a criminal complaint in January 2014 after reporting himself to the police as being the individual who set fire to the Chinese Consulate in

1 San Francisco on January 1, 2014. As described in the PSR, on January 1, 2014, the defendant drove to
2 the Chinese Consulate on Laguna Street with a gas container and another plastic container, then drove to
3 fill the containers with gasoline, after which he returned to the Consulate, poured gasoline on its front
4 steps and door, and attempted to light a fire with his passport. (PSR ¶ 9) After that attempt failed, he
5 ignited one of the plastic containers of gasoline which caught fire and caused extensive damage to the
6 Consulate's entryway. *Id.* He then drove back home. *Id.*

7 Employees of the Consulate were in the building at the time. The Consulate has provided a victim
8 impact statement to the Court. PSR ¶ 12.

9 The government agrees with the Sentencing Guidelines calculation set forth in the PSR (PSR
10 ¶¶ 16-25). The base offense level is 20. The defendant has accepted responsibility for his conduct.
11 Accordingly, the adjusted offense level is 17. At Criminal History Category I, the applicable Guidelines
12 range is 24 to 30 months' imprisonment in Zone D. The government agrees with the PSR's
13 characterization of the defendant's actions as being highly concerning. PSR Addendum. Indeed, setting
14 fire to an occupied building is an incredibly dangerous and serious criminal act. Notwithstanding the
15 seriousness of the conduct, the government agrees that a sentence of 30 months is appropriate in light of
16 the relevant 18 U.S.C. § 3553(a) factors, particularly because of the defendant's history and
17 characteristics which were set forth in full in a Status Report filed with the Court under seal after the
18 change of plea hearing in September 2016.

19 CONCLUSION

20 For the reasons set forth above, due to the seriousness of defendant's actions, the government
21 recommends that the defendant be sentenced at the high end of the agreed upon Guidelines range – a
22 term of 30-months' imprisonment. The government further recommends that the Court impose the
23 agreed upon term of supervised release of three years, with the special search and no contact conditions
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1 set forth in the plea agreement.

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3 DATED: November 23, 2016

Respectfully submitted,

4 BRIAN J. STRETCH
United States Attorney

5 _____/s/
6 Elise Becker
7 Assistant United States Attorney